

5/17/71 'Watch Lists' and Watchmen

BACK WHEN PRESIDENT NIXON'S impeachment was being debated, his champions tried to counter the charges of abuse of presidential power by raising, among other things, the "everybody does it" defense. According to this theory, the enemies lists, the 17 wiretaps and the like could be excused because Democratic Presidents, notably John F. Kennedy and Lyndon Johnson, had also misused the IRS and FBI. Mr. Nixon's defenders split among themselves on whether such conduct could be justified; their point was that, however obnoxious, it was not unique to the Nixon presidency, and Mr. Nixon should not be singled out for punishment.

The Senate select committee's report on domestic intelligence has borne out part of this contention—but only part. The Kennedy administration did launch improper IRS investigations of right-wing (and, later, left-wing) groups. President Kennedy or Attorney General Robert Kennedy did use FBI wiretaps to gain political intelligence on lobbying for sugar quotas, and to investigate at least two leaks to journalists. President Johnson employed FBI surveillance at the 1964 Democratic convention. He and his aides also used the bureau extensively to probe the activities and views of anti-war critics, including U.S. senators. Moreover, it was the Johnson administration's anxieties about civil disorders and dissent that sparked the vast expansion of surveillance of law-abiding citizens by the CIA, the Army and other agencies in the mid-1960s.

Such uses of power are neither decent nor defensible. They stopped far short, however, of the offenses that primarily caused Mr. Nixon's departure in disgrace: wholesale obstruction of justice, systematic lying about crimes and withholding evidence, and setting up a private, secret spying operation in the White House—which was unknown to Congress and, therefore, not even potentially subject to the kind of oversight that the Congress could have exercised over such authorized agencies as the CIA and FBI if it had had the sense and the will to do so. Once the full magnitude of these uniquely Nixonian deeds had been disclosed, even Mr. Nixon's staunchest supporters largely abandoned the feeble claim that he had been the victim of a relentless partisan attack.

However, a complementary notion does persist, and is generally justified. This is that the illiberal acts of the Kennedy and Johnson administrations have been treated too lightly or excused too fast. Legally speaking, little punishment can now be meted out. But that does not dispose of the matter, for people seriously concerned about restraining government and enhancing civil liberties do have at minimum an obligation to acknowledge the misdeeds of Presidents whom they regarded generally as friends. Beyond that, the forces and fears behind these abuses of power should be more widely understood, because those impulses were not unique to any one adminis-

tration or period of history.

Without embarking on a dissertation on the perils of power, we would note a few troubling tendencies that are amply illustrated by the domestic spying of the Kennedy and, even more, the Johnson years. One is the tendency of Presidents and their aides to use whatever tools may be helpful and at hand. The FBI was capable, so it was given many chores. NSA knew

how to intercept international phone calls, so the "watch lists" were drawn up. And so on.

Second, there is the tendency toward righteousness in high places, the elitist conviction that those entrusted with great power are somehow vested with special perceptions of what is right and necessary for America. This can be a bureaucratic conceit as well as a presidential one; J. Edgar Hoover's FBI, the Senate report observed, "saw itself as the guardian of the public order." Such attitudes may stem from arrogance or insecurity. In either case they become doubly dangerous in seasons of public discontent, because opposition tends to stir up a volatile mix of belligerence and bewilderment. One senior aide to President Johnson testified that when the anti-war protests erupted, top officials could not believe that "a cause that is so clearly right for the country, as they perceived it, would be so widely attacked if there were not some (foreign) force behind it."

This points to the third tendency, one of the darker themes throughout American history: the tendency to search for alien influences as an explanation of dissent—or as a scapegoat for official failures. The FBI, CIA and Army intelligence reports of the 1960s are permeated with suspicion and hostility; the "new left," so sprawling and fragmented, was seen as even more sinister than the domestic "Communist threat" of the late 1940s and early 1950s. With the rising public protest against the war, and the simultaneous eruption of urban riots, the government felt itself under siege—so much so that these misplaced protective efforts, as distinct from its genuine responsibility to maintain order, seemed imperative. Indeed, given the temperament of the President and the temper of the times, future historians may marvel that repressive operations were not even more extreme.

None of these attitudes is novel. They were not secrets at the time. Instead, they were widely shared and more widely tolerated, especially among politicians who were reluctant to challenge or alienate an aggressive President or agencies as entrenched and ingenious as the FBI. And so suspicions multiplied. The real sources of public disaffection were not examined carefully. The truly violent forces were not focused on. And a war justified as a fight for freedom overseas caused the erosion of the very liberties at

home that are the basis of true democratic security.

In this perspective, Watergate becomes even more exceptional and much more ominous. The more one learns about the secret side of government in the 1960s, the more one sees how crude and offensive the misdeeds of Mr. Nixon and his men had to become, and what fortuitous influences of journalistic persistence and judicial pressure were required, before the country and Congress became aroused. Just before the House committee's impeachment vote, Rep. James Mann (D-S.C.) warned that "Next time, there may be no watchman in the night." There was none in the 1960s, and the nation was sorely hurt. The question now is what Americans will learn from that tragic experience. The remedy does not lie solely in new laws or stronger institutional checks and balances. The real safeguard is something even harder to sustain: a basic spirit of liberality that not only tolerates diversity and peaceful dissent, but welcomes them, especially in times of stress-and accordingly disciplines the exercise of power.